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ABSTRACT

The Annual Program Plan for Fiscal Year 1980 presents descriptions of Oregon's efforts to serve handicapped children under Part B P.L. 94-142 (the Education for All Handicapped Children Act) and P.L. 89-313. Addressed are procedures in the following areas: public notice and opportunity for comment, policy on priorities, procedural safeguards, comprehensive system of personnel development, procedures for implementing the state plan, and confidentiality of personally identifiable information. Three appendixes are included: sample newspaper notices for public review and comment, comments and responses regarding the state plan, and Oregon's special education law (Senate Bill 434) approved July, 1979. (CL)

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FISCAL YEAR 1980
ANNUAL PROGRAM PLAN AMENDMENT FOR
PART B PUBLIC LAW 94-142 AND
PUBLIC LAW 89-313

Fall 1979

Oregon Department of Education
700 Pringle Parkway SE
Salem, Oregon 97310

Verne A. Duncan
State Superintendent of
Public Instruction

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STATEMENT OF ASSURANCE

Oregon Department of Education

It is the policy of the Oregon Department of Education that no person be subjected to discrimination on the basis of race, national origin, religion, sex, age, handicap, or marital status in any program, service, or activity for which the Oregon Department of Education is responsible. The Department will comply with the requirements of state and federal law concerning nondiscrimination and will strive by its actions to enhance the dignity and worth of all persons.

461231979500

SUBMISSION STATEMENT

Table of Contents and Source of Information

A. I, the undersigned authorized official of the Oregon Department of Education, hereby submit the following Annual Program Plan for Fiscal Year 1980 under Part B of the Education of the Handicapped Act, as amended by Public Law 94-142. The following table identifies items from Oregon's FY 1979 Annual Program Plan under Part B which are hereby incorporated by reference.

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B. Additional Requirements for FY 1980 Included in this plan are the additional procedures and other information necessary to meet the Part B Annual Program Plan requirements by this State for FY 1980.

C. Certifications I certify (1) that this plan has been adopted by the State educational agency and is the basis for the operation and administration of the activites to be carried out in this State under Part B, and (2) that this State is meeting all of the applicable requirements of Part B of the Education of the Handicapped Act, as amended by PL 94-142, and the regulations implementing the Act. (45 CFR Part 121a.)

D. Compliance with Section 504 The programs assisted under Part B of the Act and PL 89-313 will be operated in compliance with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations, Title 45 of the Code of Federal Regulations, Part 84 (Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance).

E. Data Requirements The data requirements in Sections 121a.124, 121a.125, 121a.126, and 121a.127 of the Part C regulations will be submitted in the FY 1980 fiscal/performance report.

6/26/79
DATE

Verne A. Duncan
Signature of Chief State School Officer or person authorized to submit this plan

Verne Duncan, Supt. of Public Instruction
Typed Name and Title

*State implementation procedures and procedures for the confidentiality of personally identifiable information are located in the state's fiscal year 1976 annual program plan. These two items are reproduced in this 1980 plan.

FISCAL YEAR 1980
ANNUAL PROGRAM PLAN
FOR P.L. 89-313, AS AMENDENT TO
TITLE I, ESEA, AS AMENDED BY P.L. 93-380

P.L. 89-313 ASSURANCES

The Oregon Department of Education submits the following Assurance (in accordance with § 116b.10 of the Rules and Regulations for State Operated Programs for Handicapped Children), and incorporates by reference the Title I Annual Program Plan for FY 1980 in accordance with the General Education Provisions Act.

ASSURANCE

The funds allocated to State and local agencies will be used in accordance with the terms of approved applications to meet the special educational needs of:

> Children in schools operated or supported by State agencies directly responsible for the free public education of handicapped children and children who have left such schools and are participating in programs in local educational agencies as provided by Section 121 of the Act.

The project descriptions required for each project funded under this program will be submitted as part of the financial/performance report submitted for FY 1980 funds.

6/26/79
Date

Verne D. Duncan
Signature of Chief State School Officer
or person authorized to submit this plan

Verne Duncan, Supt. of Public Instruction
Typed Name and Title

VICTOR ATIYEH
GOVERNOR

OFFICE OF THE GOVERNOR
STATE CAPITOL
SALEM, OREGON 97310

June 19, 1979

Dale Skewis
State Department of Education
942 Lancaster Dr. NE
Salem, OR 97310

Dear Mr. Skewis:

RE: Amendment to State Plan
for Special Education
PNRS 7905 6 960

Thank you for the opportunity to review your state plan.

This plan has been circulated for review among the appropriate state agencies. Comment made by the Educational Coordinating Commission is enclosed for your information.

I am pleased to add my endorsement as required by OMB Circular A-95, Part III.

Sincerely,

Victor Atiyeh
Governor

VA:wh
Enclosure

7

Oregon

CERTIFICATE OF STATE ATTORNEY GENERAL

I hereby certify that:

1. The Oregon Department of Education has authority under State law to submit this Annual Program Plan under Part B of the Education of the Handicapped Act, as amended by P.L. 94-142, and to administer or supervise the administration of the plan; and

2. All plan provisions are consistent with State law.

June 11, 1979
Date

William T. Linklater
Signature

William T. Linklater
Assistant Attorney General

I. PUBLIC NOTICE AND OPPORTUNITY TO COMMENT

A. Availability of Proposed Plan; Opportunity for Comment

An opportunity for review and comment on Oregon's Annual Program Plan for Fiscal Year 1980 has been provided by public notice on May 19 and 20, 1979 in several newspapers around the state: Oregonian, Oregon Journal, Eugene Register Guard, Salem Statesman, Capitol Journal, Medford Mail Tribune, Bend Bulletin, and the Pendleton-East Oregonian (Appendix A).

Public hearings were also held on the plan from 3-5 pm and 7-9 pm on May 28, 1979. Notice of these public hearings, which were held in the meeting house at the State School for the Blind, was included in the public notices above.

Further opportunity for review and comment was provided through the Oregon Project Notification and Review System, the State Clearinghouse and the Intergovernmental Relations Division. The State Clearinghouse routed copies of the draft plan to the State Budget Division, Children's Services Division, Educational Coordinating Commission, and the Community Services, Welfare and Vocational Rehabilitation Divisions.

A summary of comments received by the Oregon Department of Education and a description of action taken as a result of these comments is presented in Appendix B.

B. Availability of Approved Plan

Once the Annual Program Plan for Fiscal Year 1980 has been approved by the United States Commissioner of Education, it will be made public by a general mailing to all local school districts, county education service districts, state and nonpublic agencies, libraries, educational organizations. A public notice will also be published in the Oregonian and Oregon Journal to notify the public that the plan has been approved and that it is available from the Oregon Department of Education.

II. RIGHT TO EDUCATION POLICY STATEMENT (see page 5, 1979 plan)

III. FULL EDUCATIONAL OPPORTUNITY GOAL AND TIMELINES (see page 6, 1979 plan)

IV. POLICY ON PRIORITIES (see also page 12, 1979 plan)

As stated in Oregon's Annual Program Plan for Fiscal Year 1979, the state's first priority is to serve handicapped children ages 6 to 21 who are not receiving an education. The second priority is to provide full service to severely handicapped children within each disability who are receiving some but not all of their special education and related service needs.

A. Programs, Services Activities and Resources--1979-80

The Bureau of Education of the Handicapped requires that the state show, in this 1980 plan, a detailed description of programs, services, activites and resources it plans to provide in 1979-80 with Part B funds, especially with regard to the two priority groups described above.

It is estimated that the state's share of Part B funds for 1979-80 will be approximately $1,826,638. These funds amount to 25 percent of the total estimated grant award for Oregon in FY 1980. An estimated $365,328 will be used for administrative expenses (the allowable five percent of the total grant) and the balance will be used for support services and technical assistance activites.

Specific programs, services and activities to be provided with Part B funds can be found under Description of Use of Part B Funds below. Approximately $1,173,014 will be allocated to these programs; in addition, the state plans to appropriate $288,296 for the following:

Implementation of Personnel Development Plan	$ 70,948
Project Child Find (Contract)	69,984
Handicapped Child Count	28,300
Compliance Monitoring	119,064

Because Oregon makes available a free appropriate public education to any handicapped child not currently receiving an education, all state Part B funds are aimed at second priority children.

Description of Use of Part B Funds

B. State Administrative Personnel

The following positions (6.5 FTE) will be paid in whole or in part with Part B funds during 1979-80. Position descriptions and the percentage of salaries paid with Part B funds is included.

Education Program Coordinator: 1 FTE (100%)

Coordinate the administration of PL 94-142 for the Special Education and Special Schools Division. Approve local school district project applications and disburse flow-through funds.

Education Program Specialist: 2 FTE (100%)

Provide technical assistance to LEAs and other state agencies. Assist in the completion of compliance monitoring. Conduct the annual handicapped child count. Administer the incentive grant portion of the program.

Education Program Specialist: 1 FTE (100%)

Audits LEA and Department programs funded with federal dollars. Makes all financial reports required by the federal government.

Education Program Specialist: 1 FTE (100%)

Coordinates and administers the state program of personnel development for teachers and other personnel who work with the handicapped children.

Education Program Director: .5 FTE (50%)

Director of Special Education, Oregon Department of Education. Directs all state personnel in the administration of PL 94-142. Responsible for budgets, recommending amendments in special education laws, and the development of Oregon Administrative Rules.

Clerical Assistant: 1 FTE (100%)

Responsible for all clerical work and record keeping for all division personnel working on PL 94-142.

C. Administrative Activites

Administrative activities to be carried out in FY 1980 with Part B funds:

1. Conduct the annual handicapped child census to determine the number of handicapped children receiving special education and related services, and those not served.

2. Determine allocations of Part B funds to flow through to LEAs, and the dissemination of this information.

3. Review and approve project applications received from LEAs.

4. Administer the preschool incentive grant program.

5. Provide and direct the state's personnel preparation program for those involved with the education of handicapped children.

6. Account for and control Part B funds within federal requirements.

7. Assist, in an executive capacity, the state advisory council for handicapped children.

8. Provide inservice for hearings officer activities.

9. Develop a list of persons willing to serve as surrogate parents.

10. Consult, on a continuous basis, with local school district personnel regarding programs, budgeting, and state and federal requirements.

11. Develop the state's annual program plan for full service to all handicapped children.

12. Review and approve private schools provided special education for handicapped children.

13. Monitor special education activities to assure compliance with PL 94-142 and Part B regulations.

14. Contract for a statewide handicapped child find.

15. Develop Oregon Administrative Rules to make state and federal laws compatible.

16. Work with the Legislature, organizations, councils and advocacy groups toward mutual understanding.

17. Complete reports as required by the U.S. Commissioner of Education.

18. Work with the Bureau of Education for Handicapped in the state's administrative review.

D. Direct and Support Services

The Oregon Department of Education has not found it necessary to provide any direct services to handicapped children with Part B funds. There has not been any local school district that cannot or will not provide for the special education needs of handicapped children within its jurisdiction. The state will provide support service to agencies serving high concentrations of severely handicapped children, or low incidence of handicapped that can best be served on a regional basis, or special service in a critical area of need. These support services will be funded from the state's share (25%) of Part B funds. A description of each support service the Oregon Department of Education will provide during the 1979-80 school year with Part B funds follows.

Programs, Services and Activities for Special Support Projects

	Specific Programs	Services	Activities
1.	Four regional programs for the blind and visually handicapped in Eugene, and Jackson, Baker and Coos counties	Itinerant services for children and teachers, instructional aids and materials	• Direct special instruction • Consultant assistance for regular classroom teachers • Instructional media service
2.	Six regional programs for the deaf and hard of hearing in Malheur, Marion and Umatilla counties, and in Southern Oregon, Portland and Eugene	Itinerant service by a specialist and hearing aid materials	• Direct special instruction • Consultants for regular classroom teachers • Hearing and other aids
3.	Three programs for autistic children in Portland and Roseburg, and Clackamas County.	Highly structured programmed instruction	• One-on-one intensified instruction with specialized materials and techniques
4.	A program for severely neurologically impaired and seizure disorders at Good Samaritan Hospital	Diagnosis, evaluation and direct instructional service	• Educational direct instruction • Parent training • Medical support

5. A program for severely and profoundly handicapped at Providence Children's Nursing Center	Assessment and individual plan for a service module	• Coordinated efforts of medical, education, speech and physical therapy to provide a full service program for this type of child
6. A program to provide communication between LEAs and the Crippled Children's Division following evaluations	Educational diagnostic service, help develop appropriate IEPs, parent consultation	• Equipment and materials • Parent participation • Diagnostic clinic • Develop and implement remedial strategy
7. A program of diagnostic centers and IEP development	Multidisciplinary evaluation, IEP development, personnel training	• Liaison service for up to 550 children • Training of personnel for diagnostic centers • A management system • Demonstrations • Evaluation service for remote areas
8. Two programs for physically handicapped in Eugene	Itinerant direct services for children and consultation service for teachers	• Physical Therapy • Demonstrations • Aides
9. Three programs for seriously emotionally disturbed in hospitals at Dammasch, and in Eastern Oregon and Salem	Special class service by special teachers	• Adaptive teaching techniques • Aides • Special materials
10. A program for burned children at Emmanuel Hospital	Special teachers for educational services	• Individualized instruction

E. Projected Activities of the State Advisory Council

The State Advisory Council for Handicapped Children was organized on June 10, 1977 and met nine times during the 1977-78 fiscal year. The 15 member council is composed of parents of handicapped children, educators of handicapped children, state and local education officials, administrators of programs for handicapped children, and one handicapped individual. Projected activities of the council for FY 1980 include:

1. Review and comment on special education legislation passed during the 1979 regular legislative session.

2. Review and comment on all due process hearings orders submitted to the State Superintendent of Public Instruction for administrative review.

3. Develop a statewide plan for securing and training surrogate parents.

4. Identify special education concerns resulting from the implementation of PL 94-142, and suggest recommendations for reducing such problems.

5. Establish a procedure for gathering and sharing information with identified consumer groups.

6. Strengthen the relationship between the State Advisory Council and other state agencies.

7. Review and comment on the FY 1981 Annual Program Plan.

8. Assist with the state personnel development training plan.

9. Advise the State Superintendent of Public Instruction concerning service delivery and technical assistance efforts of the Special Education and Special Schools Division.

F. Local Educational Agency Allocations

Two hundred ninety-four (94%) of Oregon's 312 local school districts will receive an allocation of PL 94-142 funds in FY 1980 to help provide special education for handicapped children. It is estimated that 224 (72%) of the local school districts will develop 32 consortium applications, with an average of seven LEAs participating in each. About seventy districts (23%) will have allocations large enough to apply for funds individually. It is also estimated that perhaps ten of the smaller LEAs will not apply for the funds allocated to them.

Additions, Deletions and Significant Modifications to Preceding Annual Program Plans

V. CHILD IDENTIFICATION (see also page 14, 1979 plan)

The Child Find system in Oregon focuses on three major components which will comprise an overall data system to be maintained by the Oregon Department of Education:

1. The child count system of children identified, evaluated and served (the annual December 1 census).

2. A statewide child find effort to increase awareness and encourage parent referral of handicapped children who school districts have not identified in the census. There will be a "media" or public information emphasis, as well as a fixed point of referral for the state.

3. A preschool screening of children (birth to age five) to locate, identify and evaluate more adequately the handicapped population not yet old enough to be in school.

The annual census will continue to be the major identification and service reporting system. The efficiency of this counting system will be improved in the following ways:

1. Require school districts to implement a more systematic screening system that will not be dependent on teacher and parent referral alone.

2. Urge school districts to identify and evaluate pupils falling in the lowest percentiles of their district-wide achievement tests for possible identification of the handicapped.

3. Urge school districts to identify handicapped pupils in dropout populations.

The second component of the data system will be used to gather information on the identification, location and evaluation of children referred in the statewide child find awareness effort. The program is being funded from the state's share of the PL 94-142 grant and is under contract with the Portland School District 1J which will serve as the state referral center. In addition, Portland School District 1J has subcontracted with L. R. O'Neal and Associates, Ltd., a private firm specializing in child find systems. The efficiency of the program will improve over time as this component of the state's child find system becomes more familiar to school districts.

The third component involves cooperative efforts with the Interagency Collaboration of Education and Health Services project. Project personnel are initiating a major campaign for interagency agreements among all agencies in the state serving handicapped individuals. These agreements will allow the Oregon Department of Education to have access to information already collected by other state and private agencies serving handicapped children. Those various Oregon agencies, public and private, which regularly see children or families and who do preschool screening as a part of their service will expedite the location, identification and evaluation of handicapped children in the state, birth to age 21. For example, the Health Department, Crippled Children's Division, Muscular Dystrophy Association, Easter Seal Society and Head Start programs all screen preschool children for handicapping conditions. The Department of Education will develop a system for relaying the information back to school districts for follow-up locally.

Maintaining confidentiality of information collected by these agencies will be one of the major concerns in developing a way to access information for schools. One approach will be to look at the screening form used by the agency to see if it can be redesigned to include: the name of the school district in which the parent resides, and a signed parent permission statement to release such personally identifiable data as the child's name and address.

The timeline for handicapped child identification is ongoing, particularly with preschool children. The annual census will be completed each year by December 1; the statewide awareness and referral system contract with Portland School District 1J will be extended one year until June 30, 1980; and the Interagency Collaboration of Education and Health Services project will

be completed by June 30, 1981. Local school districts have already received a letter from the State Superintendent of Public Instruction advising them of their responsibilities to identify, locate and evaluate all preschool children birth to age five.

Resources for child identification are expected to amount to $98,284 from state Part B funds. The state will provide approximately $10,000 from the general fund for this activity.

It is expected that the child identification effort will result in a broadening of the state's annual handicapped child census; it is estimated that the state's count will increase by some 370 children.

A. Policies and Procedures (see page 14, 1979 plan)

VI. INDIVIDUAL EDUCATION PROGRAM (see page 18, 1979 plan)

VII. PROCEDURAL SAFEGUARDS (see also page 22, 1979 plan)

In the past, Oregon Revised Statutes have conflicted with federal requirements regarding whether a hearings officer or the local school board issues the final order resulting from a due process hearing. The 1979 Oregon Legislature considered a change through Senate Bill 434 to make the order of the hearings officer final unless one of the parties asks for a review. This brings Oregon law into conformity with federal law. A copy of enrolled Senate Bill 434 is included in the appendix of this plan; its provisions are included in this plan by reference.

VIII. LEAST RESTRICTIVE ENVIRONMENT (see page 39, 1979 plan)

C. Procedures for Implementing Least Restrictive Environment (see page 41, 1979 plan)

IX. PROTECTION IN EVALUATION PROCEDURES (see page 44, 1979 plan)

X. COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT (see also page 48, 1979 plan)

A. Introduction

The primary means employed by Oregon for the development and implementation of the Comprehensive System of Personnel Development is the Cooperative Personnel Planning Council for Educational Services to Handicapped Children. This statewide body represents providers and consumers of personnel training in special education. The council's charge is to plan programs and procedures for implementing the portion of PL 94-142 that requires that the state have a personnel development system insuring that all personnel engaged in the education of handicapped children are appropriately and adequately prepared and trained.

The council carries out this charge in accordance with the regulations of PL 94-142 and the policies of the Department, reporting on a regular basis to the State Superintendent of Public Instruction.

The system established by the council addresses both preservice and inservice training, and includes dissemination procedures. Specific information on dissemination and adoption is provided later in this chapter.

At present, no changes in the state policies and procedures have been necessary, although several council task forces are studying issues which may require new approaches. An amendment to the state's minimum standards for public schools has been proposed. The revised standards would require each district to have a staff development plan that would include inservice training related to PL 94-142 as well as other kinds of training. This amendment has not yet been acted upon by the State Board of Education.

The state education agency provides inservice through Part VI-B funds, a Handicapped Personnel Preparation grant (Part VI-D), and through other federal and state funds. (Details are provided in a later section of this chapter.) In addition, Oregon encourages other agencies to provide needed inservice and distributes information on existing inservice opportunities for the following types of personnel:

- Special education instruction personnel
- Regular classroom teachers
- Administrators
- Psychologists
- Speech-language pathologists
- Audiologists
- Physical education teachers
- Therapeutic recreation specialists
- Physical therapists
- Occupational therapists
- Medical personnel
- Parents
- Volunteers
- Hearings officers
- Surrogate parents
- Vocational educators
- Paraprofessionals
- Educational diagnosticians
- Counselors

B. Input and Implementation

Interested agencies, institutions, and organizations may participate in the following ways:

Cooperative Personnel Planning Council representation Major interests are represented by council members who are responsible for establishing and maintaining two-way communication with those persons whom they represent, and for communicating to the council the interests of those persons or groups.

Advisory Panel membership Interested agencies, institutions, and organizations have been invited to name members to the council's advisory panel, which now has more than sixty members. The panel meets several times a year at its own expense, receives detailed information on major actions proposed by the council, provides direct communication among its member groups and the council, and recruits personnel to serve on council task forces.

Participation in task forces The council establishes task forces, composed of council and advisory panel members as well as other interested

individuals, to study and prepare recommendations related to personnel development.

Mailings Mailings go out to some 1200 individuals every four to six weeks: local education agency (LEA) superintendents and special education directors, institutions of higher education (IHE) faculty, state advisory, committee and commission members, presidents of related organizations, as well as individual teachers, parents and others. Most mailings include response sheets which provide opportunities for recipients to provide input.

Volunteers Mail and telephone contact, and participation in the council's annual forum, are two means for people to become involved through their own initiative.

The extent of participation is determined by the respective agency, institution or organization.

In Oregon, the following groups are responsible for special education personnel preparation:

State Education Agency The Oregon Department of Education (ODE) coordinates the development of the state's personnel preparation system, including gathering information, planning, evaluation, and developing support subsystems. The ODE is also responsible for assisting local education agencies in implementing the personnel development system.

Teacher Standards and Practices Commission (TSPC) TSPC is responsible for establishing and enforcing standards for certification of teachers and other school personnel.

Teacher training institutions[1] Oregon's public and private teacher training institutions provide training programs which enable graduates to meet certification requirements.

Other training institutions[2] Other training institutions provide comparable training for nonteaching personnel.

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[1]Teacher training institutions in Oregon include: Eastern Oregon State College, Lewis and Clark College, Linfield College, Oregon College of Education, Oregon State University, Pacific University, Portland State University, Southern Oregon State College, University of Oregon, University of Portland, George Fox College, Reed College, Warner Pacific College and Willamette University.

[2]Other preservice training institutions in Oregon include: Oregon Institute of Technology, The University of Oregon Health Sciences Center, Columbia Christian College, Concordia College, Judson Baptist College, Mt. Angel Seminary, Museum Art School, Northwest Christian College, Oregon Graduate Center, Warner Pacific College, Western Baptist College, Western Conservative Baptist Seminary, Oregon Division of Continuing Education, and the thirteen community colleges.

Local education agencies Districts are responsible for implementing the state's comprehensive system of personnel development at the local level.

C. Needs Assessment

Training and personnel needs assessment were completed during 1978-79. The training needs assessment utilized the following procedures:

1. Results of the state's compliance monitoring activities during 1978 were tabulated and analyzed to identify areas in which training and/or technical assistance are needed.

2. An intern was employed to collect all available training needs assessments done throughout the state. The results of these assessments were analyzed and combined with information obtained through monitoring.

Results of this assessment indicate that training is necessary in the following content areas:

Screening, diagnosis, and evaluation of handicapped children
Services to emotionally disturbed children
Services to learning disabled children
Requirements of PL 94-142
Behavior management
Handicapping conditions
Individual instruction
Parent involvement
Communication skills
IEP development and implementation
Role of support services
Use of resources
Confidentiality requirements

The personnel needs assessment utilized the following procedures:

1. Self-reports of personnel needs of LEAs were compiled from district which applied for PL 94-142 funds. (See Tables 1A and 1B on the following pages; tables also indicate that all required personnel categories were included.)

2. A stratified sample of districts was contacted by telephone in November to verify the information on the tables and determine additional information.

3. In February, one-half of the districts which employ special education personnel, as well as many of the state programs reporting special education programs, were contacted for detailed information on actual short-term and projected long-term personnel needs. Results were prorated to provide estimates for the entire state (Figure 1, Column B, page 24).

4. Institutions of higher education were contacted to determine the number of new personnel being trained.

PART B – DATA TABLE No. 1A

PROJECTED NUMBER OF PERSONNEL (IN FULL-TIME EQUIVALENTS) NEEDED TO MEET THE FULL EDUCATIONAL OPPORTUNITIES GOAL FOR HANDICAPPED CHILD IN THE 1979-1980 SCHOOL YEAR

PERSONNEL	1. Teachers of Special Classes	2. Resource Room Teachers	3. Itinerant/ Consulting Teachers	4. Psychologist	5. School Social Workers	6. Occupational Therapists	7. Home-Hospital Teachers	8. Speech Pathologists	9. Audiologists	10. Teacher Aides	11. Vocational Education Teachers	12. Work-Study Coordinators	13. Physical Education Teachers	14. Recreation Therapists	15. Diagnostic Staff	16. Supervisors	17. Other Noninstructional Staff	18. TOTAL
TOTAL (a)	551	464	293	52	30	8	59	173	20	606	52	23	100	1	67	93	87	2679
MENTALLY RETARDED (b)	280	97	7															
HARD OF HEARING (c)	6	3	11															
DEAF (d)	38	28	17															
SPEECH IMPAIRED (e)	22	5	85															
VISUALLY HANDICAPPED (f)	2	1	21															
SERIOUSLY EMOTIONALLY DISTURBED (g)	78	12	19															
ORTHOPEDICALLY IMPAIRED (h)	21	2	6															
HEALTH IMPAIRED (i)	2	1	8															
SPECIFIC LEARNING DISABILITIES (j)	102	315	119															
DEAF-BLIND (k)	---	---	---															
MULTIHANDICAPPED (l)	---	---	---															

PART B – DATA TABLE No. 18

PROJECTED NUMBER OF PERSONNEL (IN FULL-TIME EQUIVALENTS) NEEDED TO MEET THE FULL EDUCATIONAL OPPORTUNITIES GOAL FOR HANDICAPPED CHILD IN THE 1980-1981 SCHOOL YEAR

PERSONNEL	1. Teachers of Special Classes	2. Resource Room Teachers	3. Itinerant/ Consulting Teachers	4. Psychologist	5. School Social Workers	6. Occupational Therapists	7. Home-Hospital Teachers	8. Speech Pathologists	9. Audiologists	10. Teacher Aides	11. Vocational Education Teachers	12. Work-Study Coordinators	13. Physical Education Teachers	14. Recreation Therapists	15. Diagnostic Staff	16. Supervisors	17. Other Noninstructional Staff	18. TOTAL
TOTAL (a)	526	550	339	74	44	16	116	183	-0-	926	41	39	88	5	85	105	132	3269
MENTALLY RETARDED (b)	222	114	13															
HARD OF HEARING (c)	7	31	11															
DEAF (d)	35	2	19															
SPEECH IMPAIRED (e)	33	7	101															
VISUALLY HANDICAPPED (f)	3	2	26															
SERIOUSLY EMOTIONALLY DISTURBED (g)	87	22	33															
ORTHOPEDICALLY IMPAIRED (h)	22	1	7															
HEALTH IMPAIRED (i)	2	1	12															
SPECIFIC LEARNING DISABILITIES (j)	115	370	117															
DEAF-BLIND (k)	---	---	---															
MULTIHANDICAPPED (l)	---	---	---															

5. In June, the remaining districts with special education staff and other districts serving a total of 50 percent of Oregon school children were contacted by telephone to determine projected personnel needs (Figure 1, Column C). Results were prorated.

Personnel needs assessment results are summarized in Figure 1. Each category is analyzed below using results of both assessments, as well as other qualitative information gathered during the assessments. Data from Figure 1, mentioned in the analysis, is coded for easy reference to the figure.

D. Analysis of Needs Assessment

1. Teachers of Special Classes Early projections indicated a decrease in the need for special class teachers, estimated at 25 positions over the next two years (1A). This estimate is reasonable in light of the requirement for moving students toward less restrictive environments. However, follow-up calls showed expected needs to be three additional special class teachers in February (1B), and 34 in June (1C). This marked increase was due primarily to resignations, with approximately two-thirds of the expected openings caused by turnover. It is not known how many of those who resign from special classes take similar positions in other agencies, although districts report that 50 percent of the special class teachers who resign appear to be leaving special education, at least temporarily. On the other hand, districts, except those located in very remote areas,* do not report exceptional difficulty in finding personnel to fill these positions. In summary, it appears that decreasing need for special classes is balanced by relatively rapid turnover in these positions, and that maintaining or slightly increasing current training levels for special class teachers will fill the state's need.

2. Resource Room Teachers Estimates of the need for additional resource room teachers has remained relatively constant at about 85 positions. Figures of 120 (2B) and 161 (2C) produced by follow-up surveys are again due primarily to turnover. Appoximately 25 percent of resource room teachers who resign are reported to be taking similar positions elsewhere, so the estimated total need is approximately 150 positions. This is close to the number expected to be trained. Districts report a need for resource room teachers with particular skills or interests, such as individuals who are trained to work with emotionally disturbed children, or have background in career or vocational education, or who are willing to work in rural or remote areas.

3. Itinerant/Consulting Teachers Original estimates of the need for 46 itinerant/consulting teachers (3A) are somewhat higher than the more recent projections of 25 and 20. Apparently some confusion arose in computing full-time equivalents of personnel in this category.

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*As a rule, districts located in or near population centers were able to fill most positions without difficulty, while districts in remote areas have problems whatever the opening.

Districts generally report a surplus of applicants for these positions, so it appears that continued training at the same rate together with transfers from other special education positions will accommodate this need for the next few years.

4. Psychologists Almost all openings projected in this area are for new positions. Estimates have remained relatively even (22, 23, 22). Districts report some difficulties in filling these positions; they also expect an increasing demand in this area in coming years. Because the psychologists are often employed in the evaluation of handicapped children, several approaches are possible in attempting to met this demand. One short-range approach is the examination of the functions performed by psychologists in evaluation. This would include assigning some of these functions, as appropriate, to other personnel, thus utilizing the psychologists' time to best advantage. A long-range approach may entail a study of possible modifications in certification requirements, training of more psychologists, or establishing inservice programs which would lead eventually toward qualifying other personnel as school psycholgists. While the total number of psycholgists employed at any time will not be great, the need for the immediate future is apparent.

5. School Social Workers Early projections (5A) indicate that districts foresaw a need for 14 additional school social workers. However, follow-up surveys indicated that no personnel in this category will be hired. The most likely explanation for this is that projected new social work positions were eliminated during the budget and levy process, and although districts would like to hire social workers, they have had to distribute these functions among existing personnel. Contrary to school psychologists, districts do not appear to see a need for school social workers in the near future. This area should be watched in subsequent needs assessments to determine whether this trend changes.

6. Occupational Therapists Districts and institutions project a need for four occupational therapists. Districts hiring therapists recently have reported little difficulty in filling positions. However, there are several factors which indicate that the need may be increasing. Several larger districts stated that they anticipate adding occupational therapists over the next few years. In addition, the professional associations for both occupational and physical therapists have supported continuing education for their members, as well as for school personnel in therapy for handicapped school-age children. This effort is expected to result in greater awareness and demand for these services. In order to outline plans for meeting anticipated future need, a task force has been established by the council to study the situation and make recommendations as to how this need might be met best.

7. Home-Hospital Teachers As with the category of itinerant/consulting teachers, initial reports indicated some confusion regarding full-time equivalents for home-hospital teachers. Some districts reporting relatively large numbers of home-hospital teachers were actually

reporting teachers on call or available, rather than full-time personnel needed. This resulted in a high initial estimate of 57 (7A). Later projections indicate that only two teachers actually will be hired.

8. Speech Pathologists Demand for new speech pathologists remains constant at about ten positions (8A). Additional openings resulting from resignations bring the figure to 28 (8C). However, districts report that nearly all speech pathologists who resigned this year were not planning to accept comparable positions in other districts. Most districts have not had difficulty recruiting speech pathologists. Training programs appear to be keeping pace with demand, and they should be maintained at the present level unless other trends surface.

9. Audiologists Data on audiologists parallels that for school social workers. Although districts estimated a need for some twenty audiologists, in fact they will not hire any this coming year. They will continue to depend on medical facilities for audiological tests, primarily due to budgetary restrictions. However, this area should be observed over the next few years in terms of changing trends.

10. Teacher Aides Again, districts anticipate a larger need for teacher aides than actually will be hired, although some positions were opened due to resignations. A surplus of applicants for teacher aide positions was reported, but this is due at least in part to the minimal requirements for these positions. A council task force on paraprofessionals is studying the qualifications for teacher aides working with handicapped children. No additional training is anticipated until the task force study is completed.

11. Vocational Education Teachers* Districts report that no personnel in this category will be hired in the near future. Both district and state program personnel are more likely to be planning to meet vocational needs of their handicapped students by training their regular vocational educators to work with the handicapped and/or by finding or training special education personnel with vocational backgrounds. The council's task force on training needs of secondary school personnel will look at this area of study, although vocational education considerations may be delegated a separate task force if necessary.

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*Telephone contacts with districts indicated that in this category and in two others--work study coordinators and physical education teachers--respondents were sometimes confused as to which personnel to report: all personnel in that category (e.g., all vocational education teachers in the district), all personnel in the category who work only or primarily with handicapped children, or all personnel with one or more handicapped children in a class. These differing interpretations make the data in 11A, 12A, and 13A highly questionable. For this reason, analysis of these three categories will be based on columns B and C, and on qualitative information received from LEAs and SOPs.

12. Work Study Coordinators* While this category shows no immediate need for new personnel, additional training for current work study coordinators may be needed.

13. Physical Education Teachers* Like the two preceding categories, this category includes ambiguous data; however, there is a projected need for personnel trained in adapted physical education. While most districts reported that they were planning to train current physical education staff rather than hire adapted physical education specialists, a significant number, almost entirely new positions, is anticipated (13C). In addition, some districts report that they expect to hire at least one specialist in the next few years. A task force on adapted physical education is expected to determine what the balance between inservice training and preservice training should be in this area. For the present, the current level of training should be maintained or increased moderately.

14. Recreation Therapists It does not appear that a large number of recreation therapists will be required at this time. However, it is expected that related services will be emphasized in the future. Consequently, the council's task on adapted physical education and physical and occupational therapy will also study therapeutic recreation.

15. Diagnostic Staff Projections for diagnostic staff appear relatively consistent (18, 15, 16). This is one of the largest projected growth areas for the future. Most of these positions are filled by individuals who are certificated in special education. As with applicants for resource room positions, districts outside of remote areas find a sufficient number of applicants who are appropriately certificated but are lacking expertise in diagnosis, particularly specialized diagnosis (e.g., preschool, bilingual, etc.). This year the state plans to consider which approach most effectively might meet this need. In the meantime, inservice training related to evaluation and diagnosis will be one of the priorities for 1979-80.

16. Supervisors/Administrators While supervisor and administrator need is relatively small and primarily due to resignations, districts attempting to fill these positions report a scarcity of applicants. Furthermore, many of those resigning are not taking comparable positions elsewhere. The follow-up scheduled for early fall of 1979 should provide more precise information on the need and employment approaches for personnel in this category.

17. Other Noninstructional Staff It is not possible to determine the nature of these 45 positions (17A); reporting districts were not required to specify personnel by type. According to telephone surveys, most "others" were actually highly specialized personnel with special education certification (e.g., a secondary level teacher with expertise in behavior management). These positions have been reclassified under the categories listed above.

*See note on previous page.

18. Counselors One of the "other" categories determined through the telephone survey that did not lend itself to reclassification was counselors. Most of these positions are at the secondary level and, in almost every case, the demand was for counselors with training in working with the handicapped, especially the emotionally disturbed. While counselor applicants were numerous, those with this specialized background were scarce. The preservice task force will be asked to address this issue to determine whether modifications in training might be proposed. Some inservice for presently employed counselors has already been provided.

19. Physical Therapists This category was omitted from forms 1A and 1B, but was included in the state's needs assessment. As with several other categories, the total number of physical therapists to be hired is small. However, districts who have attempted to hire therapists in the past have had some problems; this is also an area where expansion is predicted over the next few years. The preservice task force will address this issue.

Figure 1
PROJECTED ADDITIONAL PERSONNEL NEEDED
FOR 1979-80

PERSONNEL	A*	B**	C***
1. Teachers of Special Classes	-25	3	34
2. Resource Room Teachers	86	120	161
3. Itinerant/Consulting Teachers	46	25	20
4. Psychologists	22	23	22
5. School Social Workers	14	0	0
6. Occupational Therapists	8	4	4
7. Home-Hospital Teachers	57	2	2
8. Speech Pathologists	10	22	28
9. Audiologists	20	2	0
10. Teacher Aides	320	78	113
11. Vocational Education Teachers	-11	0	0
12. Work Study Coordinators	16	0	0
13. Physical Education Teachers	-12	10	17
14. Recreation Therapists	4	0	0
15. Diagnostic Staff	18	15	16
16. Supervisors/Administrators	12	7	9
17. Other Noninstructional	45	--	--
18. Counselors	--	15	6
19. Physical Therapists	--	6	9

*Original projections taken from Tables 1A and 1B
**First follow-up (February 1979), with revised projections of positions expected to be filled for 1979-80
***Second follow-up (June 1979)

While much useful information can be gathered from this type of needs assessment, its greatest value lies in its use to determine trends over time. The state proposes to continue using this method, refining it as needed. Several telephone surveys will be conducted to determine the best time or times during the year to gather data. The survey instrument will be revised as necessary. It is anticipated that the personnel needs survey combined with the training needs assessment will provide a good basis for future planning.

Using the analysis above, and the training needs previously mentioned, priorities were established for inservice training during 1979-80. These priorities are reflected in the inservice plan found in Table 2 and under ODE Sponsored Inservice, page 31.

Presently, all personnel involved in the education of handicapped children require some training or retraining, although individuals within each group may not. At least some training will be available to all the personnel groups listed earlier in this section. However, the Oregon Department of Education will devote its resources to priority areas and target audiences outlined below.

Content Areas The following services are priorities for 1979-80:

Diagnostic and prescriptive

Children with learning disabilities

Emotionally disturbed children

Physical education, motor, and physical fitness for handicapped children, including occupational therapy services

Target Audiences The following target audiences were selected from the list of personnel categories:

Administrators

General education personnel, including paraprofessionals

Hearings officers

Parents

Special education personnel

Support personnel

Surrogate parents

E. Personnel Planning--Inservice and Preservice

The structure for personnel planning is the Cooperative Personnel Planning Council. Membership on this council and on its advisory panel has been selected to ensure full participation of preservice as well as inservice agencies. Following is a list of council members; term expiration dates are in parentheses.

Victor Baldwin, Monmouth (1981)
Advocacy Groups

Gloria Bergquist, Independence (1981)
Teachers, Special Education

Dennis Fahey, Monmouth (1979)
Higher Education, Teacher Preparation (Special)

Fay Haisley, Eugene (1980)
Higher Education, Teacher Preparation (General)

Donald Hirtzel, Springfield (1980)
Teachers, Regular Education

William Jones, Eugene (1980)
Teacher Standards and Practices Commission

Patricia Lantz, Oregon City (1981)
Paraprofessional Training Agencies

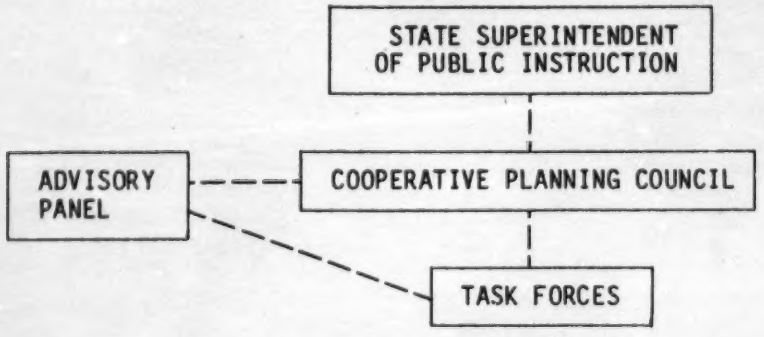
Barbara Mitchell, Salem (1981)
Oregon Educational Coordinating Commission

Gerald Smith, Portland (1979)
Higher Education, Support Services

Maurice Thorne, Crane (1980)
Local Education Agencies, Administration

Diane Warrick, Portland (1979)
Local Education Agencies, Special Education

A larger advisory panel, whose members include representatives from a broad range of organizations, institutions and agencies concerned with the education of handicapped children, works closely with the Cooperative Personnel Planning Council. The advisory panel participates in council deliberations and is a primary source for task force membership. The organizational relationship is diagrammed below.



The council's long-range goals are to:

Collect and disseminate information on personnel preparation.

Develop a comprehensive system of personnel preparation for all personnel engaged in the education of handicapped children.

Evaluate the comprehensive personnel development system.

Support and keep the personnel development system up to date.

In working towards its goals, the council carries out the following activities:

Information

Initiate and maintain communication among those involved in personnel preparation.

Collect and disseminate information on personnel preparation.

Disseminate research results and information on demonstration and similar projects.

Planning

Develop statewide goals for personnel preparation.

Involve all concerned parties in planning.

Determine training needs.

Set priorities for personnel preparation.

Identify and develop resources.

Prepare policies and procedures for personnel development.

Provide for review and revision of the personnel development plan.

Evaluation

Assess the degree to which the personnel preparation system meets personnel needs.

Monitor the implementation of the personnel preparation system.

Evaluate the administrative procedures for the personnel preparation system.

Support Function

Ensure sufficient resources to continue the operation of the council.

Serve as an advocate for the interests of personnel preparation before other agencies.

Provide comment and help develop related documents.

Promote the adoption of promising practices.

Propose needed research.

The council currently has three standing committees: executive, personnel training, and information coordination. In addition, the council has established task forces in the following areas: paraprofessional training, preservice and certification, state-operated and nonpublic schools, inservice, rural inservice delivery, local staff development plans. Other projected task forces include: physical, occupational and recreational therapy, adaptive physical education, training needs of secondary teachers.

The preceding section outlined the priority content areas and target audiences for training. Table 2 shows the type of training proposed for each target audience by the Oregon Department of Education during 1979-80. Other information related to inservice training can be found under ODE Sponsored Inservice, page 31.

In addition to the inservice described above, through grant funds the Oregon Department of Education maintains a computerized catalog of inservice planned by other agencies; copies of this information are available free of charge.

In all training activities funded by the Oregon Department of Education, fund recipients must include information on: incentives for participation, involvement of local staff, and effective innovative practices. Incentives have included release time, professional growth, materials for classroom use, district inservice credit, graduate university credit, consultation, and tuition waivers. It is expected that incentives in the future will be similar in nature.

Preservice planning is also done by the council within the scope prescribed by state statute (see the outline of responsibilities under Input and Implementation, page 15). Council and staff involvement with preservice planning has included meetings with the certifying agency and the association of teacher training institutions.

The State Board of Education has requested that the preservice and certification task force of the council draft a list of skills which regular classroom teachers need in order to implement PL 94-142. Following Board approval, this list can be used by agencies with preservice responsibilities in the development of programs.

Council membership includes four representatives of preservice training institutions and one representative from the certifying agency. Through these representatives, involvement of preservice agencies in the plan is assured.

F. Dissemination/Adoption

Dissemination activities primarily are carried out through already established channels. Activities include awareness, training, and the promotion of promising practices. Some activities are initiated by the

Oregon Department of Education, others are developed in response to requests from the field.

Major dissemination activities include:

Cooperation with Oregon Department of Education Center for Program Coordination Center staff distribute information about education of handicapped children. The staff development specialist assists the center with research inquiries received from the field.

Filmstrip loan service Filmstrips related to PL 94-142 are available on loan without cost to school districts and others.

Know-Paks The personnel development program is utilizing the Department's research specialist as well as staff from the Regional Resource Center to develop information packets for distribution. Packets contain articles and summaries prepared in response to requests from the field.

Computerized inservice catalog The catalog is also a means for dissemination.

National Dissemination Project Arrangements have been made for the council to receive assistance from the Teacher Education/Special Education Project.

Advisory Panel As explained above, the advisory panel provides for dissemination of information to groups represented by panel members.

Mailings This includes mailings mentioned above, and the Interact news letter which is partially funded by the Department.

Technical Assistance Papers Department and Regional Resource Center staff are developing and distributing technical assistance packets related to areas identified by compliance monitoring as needing attention.

Resource file A file of resource persons is maintained at the Department, and referrals are made upon request.

G. Evaluation

Evaluation of the effectiveness of the personnel development system will be accomplished as follows:

Meeting personnel needs Results of the statewide personnel needs assessment over a period of time will be used to determine the effectiveness of the system in meeting personnel needs. This long-range evaluation should show decreasing discrepancies between personnel needed and those available.

Administration of the system All components of the system within the council's responsibility will be evaluated in relation to the achievement of the goals stated for each component.

Third-party evaluation As appropriate, objective evaluations will be requested for various activities and procedures.

H. Monitoring

Monitoring of the implementation of the personnel development system will be accomplished in the following ways:

LEA applications Applications will be examined annually to determine whether the district's plans include appropriate activities for personnel development.

Compliance monitoring Information received from the Department's regular compliance monitoring visits will be used to evaluate the district's implementation of the personnel development system.

Contract evaluation Evaluation reports are required for every contract established; where the council funds projects by contract, these reports also will be used to evaluate implementation.

I. Technical Assistance

The Oregon Department of Education provides technical assistance for personnel development in the following ways:

Planning assistance ODE staff are available to assist local school districts in planning, goal-setting, and evaluating training programs.

Interpretation of monitoring information If an LEA is found to be in noncompliance, ODE staff will assist the district in planning and delivering appropriate training.

Identification of resources The ODE staff development specialist maintains a resource file.

Response to LEA requests ODE staff are available on request to school districts for technical assistance.

Guidelines for local staff development plans The council's task force on local staff development plans, and the special education personnel development specialist will be working with other Department staff in developing guidelines for districts.

TABLE 2
Projected Number of Personnel to Receive Inservice Training During the 1979-80 School Year

Training Audience	Type of Training: Awareness	Knowledge*	Skill Practice*	Skill Application*
Regular Education Teachers	10,000	7,000	5,000	400
Special Education Teachers	1,500	1,500	1,500	200
Teacher Aides	300	150	50	10
Parents	20,000	10,000	200**	
Support Personnel (psychologists, social workers, health personnel, physical education personnel, etc.)	200	150	100	25
Administrators	2,000	2,000	500	
Operations Personnel (secretarial, clerical maintenance, transportation, foodservice personnel)	1,200	1,200		
Other (specify)	750	750	100***	

*For personnel who have direct contact with handicapped children
**For parents of severely handicapped children
***Counselors

ODE Sponsored Inservice

The Department sponsors inservice workshops year-round in cooperation with LEAs, IHEs and others. Inservices are staged statewide; they are funded with federal, state and local funds. The idea is to develop awareness, knowledge and skills related to PL 94-142.

While general content areas are the same for many of the target audiences, specific subjects and treatment will vary. Training usually includes: the requirements of PL 94-142, diagnostic and prescriptive services, services to children with learning disabilities, services to emotionally disturbed children, as well as services to meet the physical education, motor and physical fitness needs of handicapped children, including occupational therapy services.

Target audiences include: regular classroom teachers, special education teachers, teacher aides, parents, support personnel, administrators, operations personnel, surrogate parents, hearings officers, and others such as counselors.

XI. PARTICIPATION OF PRIVATE SCHOOL CHILDREN (see page 62, 1979 plan)

XII. PLACEMENT IN PRIVATE SCHOOLS (see page 65, 1979 plan)

XIII. RECOVERY OF FUNDS FOR MISCLASSIFIED CHILDREN (see page 71, 1979 plan)

XIV. HEARING ON LEA APPLICATIONS (see page 71, 1979 plan)

XV. ANNUAL EVALUATION (see page 71, 1979 plan)

XVI. ADDITIONAL REQUIREMENTS (see page 73, 1979 plan)

A. Responsibility of ODE for All Educational Programs (see page 73, 1979 plan)

B. Monitoring Procedures (see page 74, 1979 plan)

C. Adoption of Complaint Procedures (see page 76, 1979 plan)

D. Policies and Procedures for the Use of Part B Funds (see page 77, 1979 plan)

E. Nondiscrimination and Employment of Handicapped Individuals (see page 79, 1979 plan)

F. Additional Information if ODE Provides Direct Services (see page 79, 1979 plan)

G. Implementation Procedures (Reproduced from Oregon's 1976 Plan)

The Oregon Department of Education, which has the primary responsibility for elementary and secondary education in Oregon, will have major administrative responsibility for implementing the state plan for providing full educational opportunities for all handicapped children. Other state agencies providing educational services to the handicapped have endorsed the goal and plan, and their cooperation has been assured.

Oregon Revised Statute 339.030 became law on October 5, 1973. It requires that (1) public school provide education for certain children unable to attend school, and (2) administrative officers of school districts consult with parents and staff from specified agencies and organizations before children are placed in special education programs. The law removes the option of exclusion and excused attendance from district school boards. The intent of the law is that school districts either must enroll the child in school or otherwise provide for the child's education.

The 1975 Oregon Legislative Assembly revised Chapter 343 of the Oregon Revised Statutes. The law:

1. Requires school districts to provide the State Superintendent of Public Instruction with annual projected activities and cost statements for special education programs;

2. Allows school districts to contract with private agencies or organizations to provide services to handicapped children;

3. Expands resources available to school districts for diagnostic and evaluative services for handicapped children;

4. Involves parents in the placement of their children in special education programs and guarantees them due process through hearings procedures;

5. Expands the concept of local and state advisory committees for the operation of special education programs.

These Oregon laws, reinforced by PL 93-380 and PL 94-142, will be administered by the Oregon Department of Education with the support and cooperation of other state agencies charged with the responsibility of providing services to handicapped individuals.

Participating agencies and their specific responsibilities for special education are as follows:

Agencies	Responsibilities
Mental Health Division	Programs for the trainable mentally retarded and the developmentally disabled
Children's Services Division	Child care for handicapped children referred by the juvenile courts
Vocational Rehabilitation	Vocational training for the handicapped
Oregon Department of Education	
Chapter 343, ORS, Oregon's Handicapped Child Law	Approve local plans for the provision of special education and administer the state reimbursement program.
PL 89-313	Establish programs and provide federal funds to state operated or supported programs for handicapped children.
Title IV, ESEA	Assure percentage of federal funds for programs serving the handicapped.
Vocational Education Act	Assure the percentage of federal funds for programs serving the handicapped.
Regional Facilities for Deaf and Blind	Support regional facilities by contract with LEAs for the deaf and blind.
Hospitals	Establish educational programs for the emotionally disturbed and the crippled or other health impaired.
Regional Resource Center	Oregon Department of Education liaison for inservice, planning and evaluation, and consultation.

State Schools for the Deaf and Blind	Operate two state schools; one for the deaf, the other for the blind.
Local School Districts	Serve all handicapped children in programs approved by the Oregon Department of Education.
Education Service Districts	Provide diagnostic and evaluation services. Provide special education consultants and itinerant teachers. Provide direct services through resolution with local educational agencies.
Private Schools	Operate special educational programs which meet Oregon Department of Education standards.

XVII. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION (EHA-B: 613(b)(1)(B)) (Reproduced from Oregon's 1976 plan)

In accordance with criteria prescribed by the U.S. Commissioner of Education, the following policies and procedures have been established by the State of Oregon to protect the confidentiality of the child identification data and information required under Section 613(b)(1)(A) of the Act:

A. Notice: Method and Content

The Oregon Department of Education will place Public Notices in newspapers having local and statewide coverage prior to the collection of personally identifiable data. The following Public Notice will appear in the Oregonian and Oregon Journal.

The Oregon Department of Education, other state agencies and local school districts are collecting data related to physically, emotionally, learning disabled, and mentally handicapped children, birth through age 21. The purpose is to determine present and future program and placement needs, and to collect data for statistical reporting and fiscal accounting. Local school districts will be collecting data to assist the state in meeting its goal to provide full educational opportunities to all handicapped children. To accomplish this goal all children residing in the state who are handicapped, regardless of the severity of their handicaps, and who are in need of special education and related services, must be identified, located and evaluated.

Some of the data to be collected is personally identifiable and may include: the name of the child; parents, guardian, or other family member's name; the address of the child; personal identifier, such as the child's social security or student number, a list of personal characteristics, or other information which would make it possible to identify the child with reasonable certainty.

Personally identifiable data will be maintained on file by those agencies gathering the information, and it will be destroyed within five years after the data is no longer needed. Only participating agencies which

are collecting and using the data for the purposes stated will have access to the data, unless written parental consent is obtained.

Parents and guardians have the right to inspect any and all data regarding their children, and they may contest the accuracy of such information. Access to personally identifiable data by unauthorized persons is forbidden without parental consent.

Each participating agency shall have available for public inspection a current listing of the names of those employes within the agency who may have access to the personally identifiable data. For further information regarding this notice, contact:

Oregon Department of Education
Special Education and Special Schools Division
700 Pringle Parkway SE
Salem, OR 97310
Telephone: 378-3598

In the event that the the native language of the parent is not English, the agency closest to the source of the data collection shall provide the parent with the opportunity to receive notice in that language of the collection of personally identifiable data. This may be through public or personal notification.

B. Access to Student Records

Parents are granted full and free access to information relating to their children in compliance with Section 438 of the General Educational Provisions Act and Part 99 of Title 45 of the Code of Federal Regulations and Oregon Revised Statutes 336.185 to 336.215.

Each participating agency shall permit parents to inspect and review any personally identifiable data relating to their children which is collected, maintained, or used by the agency. The agency shall comply with parents' requests to review or inspect personally identifiable data without unnecessary delay and prior to any hearing relating to the identification, evaluation, or placement of their children, and in no case more than 45 days after a request has been made.

The right to inspect records include: the right to a response from the participating agency to requests for explanations and interpretations of the data; and the right to request that the agency provide copies of the records containing the data where failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the data.

An agency may presume that a parent has authority to inspect and review data relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable state laws governing such matters as guardianship, separation and divorce.

Each participating agency shall keep a record of parties obtaining access to data collected, maintained, or used with the exception of parents and authorized employes of the participating agency. These records should include the name of the party, the date access was given, and the purpose for which the party is authorized to use the data.

If any record includes data on more than one child, the parents or guardians of those children shall have the right to inspect and review only that data relating to their children, or to be informed of that specific data. On request, each participating agency shall provide parents with lists of the types and locations of data collected, maintained, or used by the agency.

A participating agency may charge a fee for copies of records which are made for a parent, provided that the fee does not effectively prevent the parent from exercising the right to inspect and review those records.

A participating agency shall not charge a fee to search for or retrieve data. This shall apply to each participating agency and all personally identifiable data collected, maintained, or used for the purpose set forth.

C. Hearing Rights

A parent who believes that data collected, maintained, or used is inaccurate or misleading, or violates the privacy or other rights of the child, may request that the agency maintaining the data make appropriate amendments to the data.

The agency shall decide whether to amend the data in accordance with the request, within a reasonable period of time of receipt of the request.

If the agency decides to refuse to amend the data in accordance with the request, it shall so inform the parent of the refusal and advise the parent of the right to a hearing.

On request, the agency shall provide an opportunity for a hearing in order to challenge data to insure that it is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the child.

If, as a result of the hearing, the agency decides that the data is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall amend the data accordingly and so inform the parent in writing, and shall provide copies of the amendment to other agencies maintaining the data.

If, as a result of the hearing, the agency decides that the data is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of the right to place in the records, a statement setting forth reasons for disagreeing with the decision of the agency.

Any explanation placed in the records of the child shall be maintained by the agency as part of the records of the child as long as the record or contested portion thereof is maintained by the agency. If the records of the child or the contested portion thereof is disclosed by the agency to any party, the explanation shall also be disclosed to the party. The parent's statement commenting on the data shall be provided to other agencies maintaining the data.

Hearing Procedures

1. Following a written notice and request by a parent for a hearing, delivered to the administrative officer of an agency, the agency shall appoint an impartial hearings officer to preside at the hearing. The hearings officer shall provide to the parents and the officials of the agency notification as to the time and place of the hearing, which should be at a time and place reasonably convenient for the parties involved.

2. The hearing shall be scheduled no sooner than 15 calendar days nor later than 45 calendar days after receipt of the request for hearing from the parent. These time limits may be waived or altered by mutual consent.

3. The hearing shall be a closed hearing unless the parent requests an open hearing.

4. The parent shall have the right to a representative of personal choosing, including legal counsel. The agency may also be represented by legal counsel.

5. The decision of the hearings officer shall be based solely on the evidence presented at the hearing.

6. The administrative officers of the agency shall bear the burden of proof as to the appropriateness and accuracy of information contained in the records.

7. A tape recording or other record of the hearing shall be made. The record of the proceedings shall be available to the parent.

8. At a reasonable time prior to the hearing, the parent or counsel shall be given access to the records, including any tests or reports upon which the proposed records may be based.

9. At a reasonable time prior to the hearing, the parent or counsel shall have an opportunity to obtain an independent evaluation of the child.

10. The parent or representative shall have the right to request the attendance of any official, employe or agent of the agency who may possess evidence upon which the proposed action could be based.

11. Full opportunity for examination and cross-examination shall be accorded to each party.

12. Within 30 days after the hearing, the hearings officer shall render a decision in writing. Such decision shall include findings of fact and conclusions, and shall be filed with the agency and a copy sent by certified mail to the parent.

13. Nothing contained herein shall be construed to preclude any system of consultations or conferences with parents which is used by agencies with regard to the personally identifiable records of children

thought to be handicapped. Nor shall such consultations or conferences be held in lieu of a hearing if one is requested.

D. Consent

Policy

Agencies holding personally identifiable data will obtain written parental consent before such data is:

1. Disclosed to anyone other than officials of participating agencies collecting or using the data for the purposes stated;
2. Used for any purpose other than those specified; and
3. Sought directly from the child by formal evaluation, interviewing or testing.

In the event a parent refuses to provide consent, every effort shall be made to establish a parent-agency counseling relationship. Counseling will emphasize the importance of consent in the best interests of the child. In the event the parent still refuses consent, data will not be disclosed, used for any purpose other than those originally specified, or sought directly from the child.

Procedure

Where the consent of a parent is required for the release of personally identifiable data, the agency will notify the parent in that individual's native language, in advance of the proposed action, and obtain written approval prior to the release of such data.

A release form for personally identifiable data shall be provided. The form shall include: (1) specification of the records to be released, (2) the reasons for such release, and (3) the names of the parties to whom such records will be released. The release form will be signed and dated by the parent.

E. State and Local Access to Data

Personally identifiable data will not be disclosed without obtaining parental consent, except to participating agencies which are collecting or using the data for the purposes stated. Parental consent for disclosure to other than participating agencies shall be obtained by the agency planning to disclose personally identifiable data.

F. Safeguards

Each participating agency will protect the confidentiality of data at collection, storage, disclosure and destruction stages according to the following procedures:

One official at each participating agency shall assume responsibility for assuring the confidentiality of any personally identifiable data. All persons collecting or using personally

identifiable data shall receive training or instruction regarding the state's policies and procedures, protecting the confidentiality of personally identifiable data. Each participating agency shall maintain for public inspection a current listing of the names of those employes within the agency who may have access to the personally identifiable data.

G. Destruction of Data

All personally identifiable data collected for the purposes stated shall be destroyed within five years after the data is no longer needed. The exception is a permanent record consisting of a student's name, address, phone number, grades, attendance records, classes attended, grade level completed, and year completed, may be maintained without time limitation.

Prior to the destruction of data, reasonable efforts will be made to notify parents that they have the right to be provided with copies of any data which has been obtained or used for the purposes stated.

H. Children's Rights

When a child reaches age 18, or is attending an institution of post-secondary education, the permission or consent required of the right given to parents shall be required of and granted to the student, except when the type or severity of the handicapping condition is determined to preclude the granting of such rights. In this case the rights are maintained by the parent.

I. Enforcement

State agency personnel found to be in violation of the confidentiality provision of this plan will be subject to disciplinary action as governed by ORS 240.555. Specific policies of participating agencies governing improper disclosure of confidential data will also apply. LEAs found in violation of confidentiality policies and procedures described in this plan shall be notified at once and asked for a written plan of correction. If the situation is not corrected, the ODE shall withhold EHA Part B funds. If an LEA is in violation of state standards, state funds will be withheld until the state has assurance that confidentiality policies and procedures are met.

APPENDIX

Page

A. Newspaper Notices: Invitation for Public Review and Comment and Notice of Public Hearing on the Plan 43

B. Comments of FY 1980 State Plan and Response 51

C. Enrolled Senate Bill 434 53

Affidavit of Publication

State of Oregon,
County of Jackson } ss.

I, Joann Alldredge, being first duly sworn, depose and say that I am the (OWNER, EDITOR, PUBLISHER, MANAGER.)

Principal Clerk (ADVERTISING MANAGER, PRINCIPAL CLERK, PRINTER OR PRINTER'S FOREMAN)

of Medford Mail Tribune, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Medford in the aforesaid county and state: that the Public Notice

Plan for spec. education, a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for 2 successive and consecutive days in the following issues May 18, 20, 1979
(HERE SET FORTH DATES OF ISSUES IN WHICH THE SAME WAS PUBLISHED)

Joann Alldredge

Subscribed and sworn to before me this 23rd day of May, 19 79

David J Gibson
NOTARY PUBLIC FOR OREGON

My Commission expires 21st day of May, 19 81

PUBLIC NOTICE

A draft of the 1979-80 state plan for special education in Oregon under Public Law 94-142 is available for public review and comment. Copies of the plan are available at any County Education Service District office or the State Department of Education. Written comments on the plan should be directed to Dale Skewis, State Department of Education, Salem, Oregon 97310. A public hearing on the plan will be held from 3-5pm and from 7-9pm on May 28, 1979 in the Meeting House, State School for the Blind, Salem, Oregon.

The 1978-79 Annual Program Plan Amendment for the Education of Handicapped Children under P.L. 94-142 has been approved by the U.S. Office of Education. A copy will be provided on request from the Documents Clerk, State Department of Education, Salem, Oregon 97310.

In the _____ *Court of the State of Oregon*

for the County of Multnomah

_____

_____ Plaintiff

vs.

_____

_____ Defendent

Affidavit of Publication

STATE OF OREGON } ss

County of Multnomah _____

I, J.M. McINTEER being first duly sworn depose and say that I am the Principal Clerk Of The Publisher of The Oregonian, a newspaper of general circulation, as defined by ORS 193.010 and 193.020, published in the City of Portland, in Multnomah County, Oregon, that the advertisement, a printed copy of which is hereto annexed, was published without interruption in the entire and regular issues of The Oregonian for TWO successive and consecutive ISSUES on the following dates:

5/19-20/79

J.M. McInteer

Principal Clerk Of The Publisher

Subscribed and sworn to before me this 12TH day of JUNE 19 79

Notary Public for Oregon

My Commission expires: _____

F-1703

PUBLIC NOTICE

A draft of the 1979-80 state plan for special education in Oregon under Public Law 94-142 is available for public review and comment. Copies of the plan are available at any County Education Service District office or the State Department of Education. Written comments on the plan should be directed to Dale Sturm, State Department of Education, Salem, Oregon 97310. A public hearing on the plan will be held from 1-5 pm and from 7-9 pm on May 28, 1979 in the Head-Hill House, State School for the Blind, Salem, Oregon.

The 1978-79 Annual Program Plan Amendment for the Education of Handicapped Children under P.L. 94-142 has been approved by the U.S. Office of Education. A copy will be provided on request from the Document Clerk, State Department of Education, Salem, Oregon 97310

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PUBLIC NOTICE

A draft of the 1978-79 state plan for special education in Oregon under Public Law 94-142 is available for public review and comment. Copies of the plan are available at your County Education Service District office or the State Department of Education. Written comments on the plan should be directed to Dale Mentzer, State Department of Education, Salem, Oregon 97310. A public hearing on the plan will be held from 3-5 pm and from 7-9 pm on May 24, 1979 in the Meade Hall, State School for the Blind, Salem, Oregon.

The 1978-79 Annual Program Plan Amendment for the Education of Handicapped Children under P.L. 94-142 has been approved by the U.S. Office of Education. A copy will be provided on request from the Documents Clerk, State Department of Education, Salem, Oregon 97310

In the _____ *Court of the State of Oregon*

for the County of Multnomah

_____

_____ Plaintiff

vs.

_____

_____ Defendent

Affidavit of Publication

STATE OF OREGON }
County of Multnomah _____ } ss

I, J.M. McINTEER

being first duly sworn depose and say that I am the Principal Clerk Of The Publisher of The Oregon Journal, a newspaper of general circulation, as defined by ORS 193.010 and 193.020, published in the City of Portland, in Multnomah County, Oregon; that the advertisement, a printed copy of which is hereto annexed, was published without interruption in the entire and regular issues of The Oregon Journal for ONE successive and consecutive ISSUES on the following dates:

5/19/79

J.M. McInteer

Principal Clerk Of The Publisher

Subscribed and sworn to before me this 12TH day of JUNE 19 79

Evelyn F. Mayer

Notary Public for Oregon

My Commission Expires July 8, 1979

F-1703

My Commission expires: _____

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GUARD PUBLISHING COMPANY

P. O. BOX 10188 PHONE (503) 485-1234
EUGENE, OREGON 97401

Legal Notice 5278

Legal Notice Advertising

- State of Oregon
  Department of Education
- 942 Lancaster Drive NE
  Attn: Dale R. Skewis
- Salem, OR 97310

☐ Tearsheet Notice

☐ Duplicate Affidavit

AFFIDAVIT OF PUBLICATION

STATE OF OREGON,)
COUNTY OF LANE,) ss.

I, Marcia Leavitt

being first duly sworn, depose and say that I am the Advertising Manager, or his principal clerk, of the Eugene Register-Guard, a newspaper of general circulation as defined in ORS 193.010 and 193.020; published at Eugene in the aforesaid county and state; that the

PUBLIC NOTICE,

a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for two successive and consecutive weeks in the following issues:

May 19 and 20, 1979

Marcia Leavitt

Subscribed and sworn to before me this MAY 21, 1979

Notary Public for Oregon

My Commission Expires: June 30, 1979

AFFIDAVIT

PUBLIC NOTICE

A draft of the 1979-80 state plan for special education in Oregon under Public Law 94-142 is available for public review and comment. Copies of the plan are available at any County Education Service District office or the State Department of Education. Written comments on the plan should be directed to Dale Skewis, State Department of Education, Salem, Oregon 97310. A public hearing on the plan will be held from 3-5 p.m. and from 7-9 p.m. on May 28, 1979 in the Meeting House, State School for the Blind, Salem, Oregon.

The 1978-79 Annual Program Plan Amendment for the Education of Handicapped Children under P.L. 94-142 has been approved by the U.S. Office of Education. A copy will be provided on request from the Documents Clerk, State Department of Education, Salem, Oregon 97310.

No. 5278—May 20, 1979

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PUBLIC NOTICE

A draft of the 1979-80 state plan for special education in Oregon under Public Law 94-142 is available for public review and comment. Copies of the plan are available at any County Education Service District office or the State Department of Education. Written comments on the plan should be directed to Dale Stevens, State Department of Education, Salem, Oeregon 97310. A public hearing on the plan will be held from 3-5pm and from 7-9pm on May 28, 1979 in the Meeting House, State School for the Blind, Salem, Oregon.

The 1978-79 Annual Program Plan Amendment for the Education of Handicapped Children under P.L. 94-142 has been approved by the U.S. Office of Education. A copy will be provided on request from the Documents Clerk, State Department of Education, Salem, Oregon 97310.

SJ May 19,20,1979

Affidavit of Publication

STATE OF OREGON, }
County of Marion, } ss.

I, Lela McAllister, being first duly sworn, depose and say that I am the principal clerk of The Oregon Statesman ☐ of The Capital Journal ☐, a newspaper of general circulation as of The Statesman Journal ☒ defined by sections 193.010 to 193.110, Oregon Revised Statutes; printed and published at Salem in the aforesaid county and state; that the, Public Law 94-142

.....a printed copy of which is hereby annexed, was published in the entire issue of said newspaper for two successive and consecutive times in the following issues: May 19, 20, 1979

Lela McAllister

Subscribed and sworn to me this 21

day of May 1979

Notary Public for Oregon

My commission expires 4/29/81

SM/AC150R-279/H

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IN THE _____ COURT OF THE
STATE OF OREGON FOR UMATILLA COUNTY

AFFIDAVIT OF
PUBLICATION OF

_____

Equity
Law } No. _____

STATE OF OREGON,
County of Umatilla } ss

I, Connie Ford being first duly sworn, depose and say that I am the principal clerk of the publisher of the East Oregonian, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Pendleton in the aforesaid county and state; that the EO-643 Public Notice

a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for 2 successive and consecutive insertions in the following issues:

May 12, 14, 19 79

Connie Ford

Subscribed and sworn to before me this 16th day of May, 19 79

Notary Public of Oregon

MY C... EXPIRES SEPT. 8, 1980

EO-643
PUBLIC NOTICE

A draft of the 1979-80 state plan for special education in Oregon under Public Law 94-142 is available for public review and comment. Copies of the plan are available at any County Education Service District office or the State Department of Education. Written comments on the plan should be directed to Dale Shewis, State Department of Education, Salem, Oregon 97310. A public hearing on the plan will be held from 3-5 p.m. and from 7-9 p.m. on May 28, 1979 in the Meeting House, State School for the Blind, Salem, Oregon.

The 1978-79 Annual Program Plan Amendment for the Education of Handicapped Children under P.L. 94-142 has been approved by the U.S. Office of Education. A copy will be provided on request from the Documents Clerk, State Department of Education, Salem, Oregon 97310.

May 12, 14, 1979

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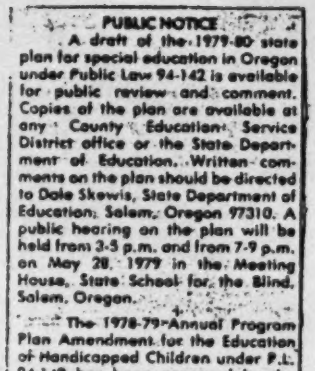

PUBLIC NOTICE

A draft of the 1979-80 state plan for special education in Oregon under Public Law 94-142 is available for public review and comment. Copies of the plan are available at any County Education Service District office or the State Department of Education. Written comments on the plan should be directed to Dale Skewis, State Department of Education, Salem, Oregon 97310. A public hearing on the plan will be held from 3-5 p.m. and from 7-9 p.m. on May 28, 1979 in the Meeting House, State School for the Blind, Salem, Oregon.

The 1978-79 Annual Program Plan Amendment for the Education of Handicapped Children under P.L. 94-142 has been approved by the U.S. Office of Education. A copy will be provided on request from the Documents Clerk, State Department of Education, Salem, Oregon 97310.

134, 135c

Affidavit of Publication

STATE OF OREGON, COUNTY OF DESCHUTES, — ss.

I, Sharon Hansen, being first duly sworn, depose and say that I am the ~~General Manager, Advertising Manager,~~ Principal Clerk of the Publisher, of The Bulletin, a newspaper of general circulation printed and published at Bend in the aforesaid county and state as defined by ORS 193.010 and ORS 193.020, that Public Notice- draft of the 1979-80 state plan for special education a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for two successive and consecutive weeks in the following issues: May 12 and 14, 1979

Sharon Hansen

Subscribed and sworn to before me this 14th day of May, 19 79.

Betty Sprague
Notary Public for Oregon

(My Commission Expires May 12, 1981)

COMMENTS ON FY 1980 STATE PLAN AND RESPONSE

Comment: Two comments were received regarding the wording of the state policy on least restrictive environment for children placed in environments other than the regular classroom. One wanted individual education programs detailed for the specific environment and the other desired IEPs consistent with the regular education curriculum.

Response: State policy assures that individual education programs are based on the individual child's needs. These needs may be specific to a special environment or they may be directed toward the regular school curriculum. Because each child must have individual attention regarding goals and objectives, no change has been made in the present policy.

Comment: It was recommended that the plan include specific provisions to encourage and support mandatory services for children over 20 and under six years of age.

Response: The plan does contain a goal for full education opportunities for all handicapped children from birth through age 21. Mandatory service is according to state law which specifies ages 6 to 21, and if a local school district provides kindergarten, then such mandatory service is for ages 5 to 21. The state Attorney General is required to sign off on the plan testifying that "all plan provisions are consistent with state law." While the goal has been acceptable, any mandatory provisions beyond state law would be rejected. No change has been made in the plan for extended services beyond state law.

Comment: There was a comment asking for more detailed information regarding additional service needed to serve all handicapped children ages 3 through 21. The comment noted that there were 755 children who required additional special education and related services.

Response: The data referred to in this comment was obtained from the 1979 plan plan which was reviewed in conjunction with the 1980 plan. The 755 children are those reported in the second priority group. It is believed that the best procedure to implement full service is through the state's monitoring procedure. In this process each agency is contacted individually with regard to its shortcomings to provide full services. A plan from each agency to correct all deficiencies is mandatory. No attempt has been made to detail in the state plan all additional services needed by children reported in the second priority group.

Comment: Our attention was directed to the needs assessment showing a negative 12 for physical education teachers.

Response: A section has been added to the plan which gives an analysis for each classification of personnel working with the handicapped. Follow-up on needs assessment shows positive figures for the need for physical education teachers.

Comment: One agency disagreed with the timelines for service to handicapped under age six. It was stated that the dates for full service for handicapped children birth through age five is inconsistent with state law and that all dates for this age group should be removed.

Response: The timelines in the plan are a goal for the state. This goal with specific timelines is required for participation in PL 94-142 funding. No change is being made in the timeline table.

Comment: A comment was received which indicated a statement in the plan regarding Oregon's immediate service to identified handicapped children is unsubstantiated.

Response: Both Oregon and federal rules and regulations require immediate special education services be made available to identified handicapped children not currently receiving an education. Such service is a first priority. All applicants for federal funds must certify that they have no first priority children for which a free appropriate public education is not available. Monitoring procedures assure a check on all agencies regarding the availability of a free appropriate public education.

Comment: It was recommended that the plan include tables to show the actual number of personnel employed in 1978-79 and the projected numbers needed for 1979-80.

Response: These tables have been included in the plan.

Comment: It was recommended that interagency cooperative agreements be included in the plan.

Response: These agreements are included in the 1978 plan which is incorporated by reference.

Comment: Information should be inserted in the 1980 plan regarding the 1979 Legislature's SB 434 which makes a hearings officer's order final.

Response: The inclusion of this material would show progress toward resolving the conflict between state and Federal law. Information on SB 434 is now included and a copy of the enrolled bill is provided in Appendix C.

OREGON LEGISLATIVE ASSEMBLY–1979 Regular Session

Enrolled

Senate Bill 434

Sponsored by Senator HANLON, Representative GRANNELL (at the request of Legislative Counsel Committee)

CHAPTER..... 423

AN ACT

Relating to special education programs; creating new provisions; repealing ORS 343.077; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 343.077 is repealed and sections 2 to 14 of this Act are enacted in lieu thereof.

SECTION 2. As used in this 1979 Act:

(1) "Decision" means the decision of the hearings officer which shall be final unless reviewed by the Superintendent of Public Instruction.

(2) "Determination" means the determination by the school district concerning the identification, preplacement or annual evaluation, individual education plan or placement of a handicapped child in a program paid for by the district.

(3) "Order" has the meaning given in ORS 183.310 to 183.500.

(4) "Parent" means the parent or legal guardian, other than a state agency, of the child or the surrogate for the parent appointed pursuant to section 12 of this 1979 Act.

(5) "School district" means a common or union high school district, an education service district or a state agency or institution that is charged with the duty or contracted with by a public agency to care for or educate, or both, children apparently eligible for special education.

(6) "Superintendent" means the Superintendent of Public Instruction or the designee of the Superintendent of Public Instruction.

SECTION 3. The Department of Education shall establish by rule procedures to protect the rights of every handicapped child who is eligible for special education and every child who there is a reasonable cause to believe is handicapped, including:

(1) Rules governing the procedures for the appointment of a surrogate for the parent and other rules necessary to protect the special educational rights of the child, which shall include but not be limited to:

(a) Rules applicable whenever the parents of the child are unknown or unavailable or when there is reasonable cause to believe that the child is handicapped and is a ward of the state; and

(b) Rules prescribing procedures applicable to situations where a parent is uncooperative or unresponsive to the special education needs of the child.

(2) Rules prescribing hearings procedures if identification, evaluation, individual education plan or placement is contested.

SECTION 4. (1) At any time a parent who has reasonable cause to believe that the child is eligible for special education may apply on behalf of the child to the school district wherein the child resides for admission of the child into a special education program.

(2) The school district or any employe thereof may also initiate the application if the district or employe has reasonable cause to believe that a child in the district is eligible for special education. However, in common or union high school districts or education service districts, employes may initiate the application only pursuant to procedures prescribed by the district.

SECTION 5. (1) Upon receipt of the application, the school district shall commence an appropriate preplacement evaluation of the child to determine the eligibility of the child for special education. The evaluation shall be completed within a reasonable time after application is made. After the evaluation is completed, the school district shall notify the parent of its determination that the child is eligible or not eligible for special education.

(2) The notice must be in writing, and must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the school district shall take steps to insure:

(a) That the notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;

(b) That a reasonable effort is made to aid the parent in understanding the content of the notice; and

(c) That there is written evidence that the requirements of this subsection have been met.

(3) The notice shall indicate whether the district intends:

(a) To place the child in a particular special education program;

(b) To deny such placement;

(c) To transfer the child to such a program; or

(d) To transfer the child from such a program.

(4) The notice shall also contain an explanation of the right of the parent to contest the identification, preplacement or annual evaluation, individual education plan or the intended placement of the child and shall request parental consent to the intended placement. If the parent consents in writing to the intended placement, the child shall be so placed.

SECTION 6. (1) If the parent withholds or refuses consent to identification, preplacement or annual evaluation, individual education plan or placement, the school district shall follow procedures prescribed in rules of the Department of Education to act when consent is not obtained.

(2) A hearing shall be conducted pursuant to rules of the Department of Education if the parent:

(a) Contests the determination of the school district concerning identification, preplacement or annual evaluation, individual education plan or placement; or

(b) Claims that the result of the determination of the district is to deny the child free appropriate education.

(3) The department's rules in subsection (2) of this section shall be as consistent as possible with the procedures applicable to a contested case under ORS 183.310 to 183.500. However, the department's rules shall prohibit the introduction of any evidence at the hearing that has not been disclosed to both parties at least five days before the hearing. The parent shall be entitled to have the child who is the subject of the hearing present at the hearing and to have the hearing open to the public.

(4) The school district may also commence the contested case proceedings to obtain a decision whether its identification, preplacement or annual evaluation, individual education plan and placement are appropriate or whether the result of the determination of the district is to provide the child with free appropriate education.

SECTION 7. (1) If the finding at the hearing held under section 6 of this 1979 Act is that the identification, preplacement or annual evaluation, individual education plan and placement by the district are appropriate and that the child is being provided a free appropriate education, the hearings officer shall decide in support of the determination of the district.

(2) If the finding at the hearing is that the identification, preplacement or annual evaluation, individual education plan or placement is not appropriate or that the child is not being provided a free appropriate education, the hearings officer shall decide that the school district shall revise or modify its placement in order to provide the child with a free appropriate education.

(3) The decision shall be entered not later than 45 days after the request for hearing is filed unless an extension has been granted by the hearings officer at the request of the parent or the school district. Copies of the decision shall be sent to the parent and to the school district accompanied by a statement describing the method of appealing the decision. Any hearings held under section 6 of this 1979 Act must be conducted by an independent hearings officer who is not a regular employe of the school district or the Department of Education.

SECTION 8. (1) Notwithstanding the limitation on access to records under ORS 192.410 to 192.500 and 336.185 to 336.215, the parent is entitled at any reasonable time to examine all of the records of the school district pertaining to placement of the child.

(2) Any parent is entitled to obtain an independent evaluation either before or during the contested case proceedings under section 6 of this 1979 Act or before or during an appeal to the Superintendent of Public Instruction under section 9 of this 1979 Act, if:

(a) The parent disagrees with the identification, preplacement or annual evaluation, individual education plan or placement of the child by the district; and

(b) The parent claims that the child is entitled to but is not being provided a free appropriate education.

(3) If the hearings officer under section 6 of this 1979 Act or the Superintendent of Public Instruction under section 9 of this 1979 Act decides that the independent evaluation requires the determination of the school district to be revised significantly, the parent is entitled to have the costs of the independent evaluation that are incurred by the parent paid for by the school district. However, no child is entitled to be the subject of more than one independent evaluation paid for by the district in any given school year.

(4) If the parent is unable to pay for an independent evaluation or seeks a second independent evaluation, and the Department of Education decides that the parent is unable to pay for such an evaluation and has cause to seek such an evaluation, the department may pay for an independent evaluation.

(5) If the department pays for an independent evaluation that produces the result described in subsection (3) of this section, then the department may bill the school district for the cost of the independent evaluation so long as the district has not already paid the costs of an independent evaluation of the particular child during the current school year.

SECTION 9. (1) Notwithstanding ORS 183.480, the decision of the hearings officer under section 6 of this 1979 Act shall be reviewed by the Superintendent of Public Instruction:

(a) Upon request therefor by the parent;

(b) If the school district refuses to accept the decision of the hearings officer and notifies the Superintendent of Public Instruction of that refusal; or

(c) If the school district fails to implement the decision within 10 days and the superintendent is notified of that failure by the parent, unless the superintendent extends the time in exceptional cases for a reasonable period.

(2) The superintendent shall conduct an impartial review, examining the entire record of the hearing and determining whether the procedure at the hearing was consistent with the requirements of law. The superintendent may seek additional evidence to be presented if the superintendent finds the record to be inadequate. The parent and the school district shall be given an opportunity to present written and oral argument, or both.

(3) At the conclusion of the review, the superintendent shall enter a written final order modifying, sustaining or reversing the decision of the hearings officer.

(4) The order entered under this section shall be entered not later than 30 days after receipt of the request for the review unless an extension has been granted by the superintendent upon the request of the parent or the school district.

(5) Either the parent or the school district may appeal the order of the superintendent to the Court of Appeals under ORS 183.480.

SECTION 10. (1) If the placement of the child has been contested under section 6 of this 1979 Act:

(a) The child shall remain in the then current educational program placement until the proceedings are completed if the child is in an educational program.

(b) The child shall be placed with the consent of the parent in a program provided or selected by the district at the district's expense until the proceedings are completed if applying for initial admission to a public school.

(2) The provisions of paragraphs (a) and (b) of subsection (1) of this section do not apply if the parent and the school district agree to temporary placement in some other program.

(3) After completion of the proceedings as described in sections 6 to 9 of this 1979 Act, the decision regarding placement of the child shall be considered final unless the placement is changed:

(a) Pursuant to the annual evaluation of the individual educational program of the child;

(b) By agreement of the parent and the school district;

(c) If a significant change occurs in the condition of the child; or

(d) If there is new or additional significant evidence that the identification, preplacement, annual or independent evaluation, the individual education plan, or placement of the child is not consistent with a free appropriate education for that child.

(4) Nothing in sections 2 to 10 of this 1979 Act is intended to prevent the temporary exclusion of a child from the public schools if the condition or conduct of the child constitutes an imminent danger to the health or safety of the child or others. However, no pregnant child shall be excluded from the public schools solely on the basis of pregnancy.

SECTION 11. (1) In addition to and not in lieu of any other sanction that may be imposed against a noncomplying school district, the Department of Education may withhold all or any part of the funds otherwise due a district for special education until the district complies with the requirements of sections 2 to 12 of this 1979 Act.

(2) If the Department of Education finds that the school district has refused to pay for the independent evaluation when the results thereof required the determination of the school district to be revised significantly, the department may withhold from funds due the district for special education an amount not to exceed the expense incurred by the parent in obtaining the independent evaluation. The department shall use the funds thus withheld for payment of the costs of the independent evaluation.

SECTION 12. (1) The Department of Education, in cooperation with the State Advisory Council for Handicapped Children, shall consult with other organizations that represent the interests of handicapped children to secure nominations of persons to serve as surrogates. The nominees must then be approved by the Department of Education and the department shall maintain a list of approved nominees that shall be made available to school districts. Appointments of surrogates by other than school districts are not required to be made from the approved list. However, an appointing authority which does not use the list must assure that the surrogate is independent and unbiased. A surrogate so appointed may be challenged for bias. The department in cooperation with the council shall establish procedures to insure that surrogates have or can acquire the necessary knowledge and skills to represent the parent to protect the special educational rights of the child.

(2) Whenever the parents of the child are unknown or unavailable or when there is reasonable cause to believe the child is handicapped, and is a ward of the state, the school district shall appoint an individual to serve as a surrogate. The individual must be on the approved list of nominees, as provided in subsection (1) of this section, and shall act as a surrogate for the parent or guardian of the child in protecting the special educational rights of the child. If the district is unwilling or unable to do so, the Department of Education shall appoint an individual to act as a surrogate. A child is entitled to have a surrogate appointed to serve until the child is 21 years of age or until the child is determined to be no longer eligible for special education.

(3) Where a parent in writing consents thereto, a surrogate may be appointed in situations other than those described in subsection (2) of this section.

(4) If a person appointed as a surrogate is no longer able or willing to serve, the person shall notify the appointing authority who shall appoint another surrogate.

(5) Any person appointed as a surrogate pursuant to this section or any other law shall not be held liable for actions taken in good faith on behalf of the parent in protecting the special educational rights of the child.

(6) A person appointed as surrogate shall not be an employe of the appointing authority or of the Department of Education.

(7) Nothing in this section prevents the appointment of a surrogate in a manner otherwise provided by law.

SECTION 13. During the 1979-1981 biennium, the Department of Education in consultation with the State Advisory Council for Handicapped Children and organizations representing the interest of handicapped children, including school districts, shall prepare a plan for recruiting, training and appointing surrogates and shall report on the plan to the Sixty-first Legislative Assembly.

SECTION 14. In addition to any other rules which may be adopted pursuant to section 3 of this 1979 Act, the Department of Education shall establish by rule procedures for considering and obtaining special education for pregnant children. Such rules shall include, but not be limited to, the obligation of the school district to:

(1) Inform pregnant students and their parents of the students' rights to special educational services under this section and the availability of such services in the school district or education service district;

(2) Facilitate the provision of related services, including counseling, to pregnant students; and

(3) Inform pregnant students and their parents of the availability of resources provided by other agencies, including health and social services.

SECTION 15. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on passage.

Approved by the Governor July 17, 1979.
Filed in the office of Secretary of State July 18, 1979.